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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,237	03/20/2000	Seth D. Rose	344-P-16-USA	9691

7590

07/21/2003

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EXAMINER

FUBARA, BLESSING M

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 07/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/509,237

Applicant(s)

ROSE ET AL.

Examiner

Blessing M. Fubara

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

Examiner acknowledges receipt of amendment C filed 05/05/03 and request for continued examination filed 05/12/03. Claims 9 and 12-14 are pending.

#### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on 05/12/03 has been entered.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller et al. (US 4,826,677).

Mueller teaches applying polymer dispersions containing medicines to skin to treat psoriasis. The liquid polymer solution polymerizes *in situ* to form a film as the solvent evaporates out of the solution or dispersion applied to the skin. The polymeric materials in Mueller are polyethylene, polyurethane, polyvinyl chloride, polyvinyl alcohols, polyvinyl acetate, polymethacrylates or mixtures thereof and methylcelluloses. Including functional

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groups through copolymerization with appropriate monomers produces cationic or anionic polymers. Urea is simultaneously present either in dissolved form or suspension.

Antipsoriatic medicines such as allantoin, tar products, chrysarobin, dithranol, vitamin A and glucorticoids are some the medicinal agents incorporated in the film forming polymer composition (column 3, lines 9-18). See abstract, column 2, line 33-59, column 3, lines 9-44 and claims 1-12.

Mueller teaches the method of the instant claims except that Mueller does not teach the polymers recited in claims 9 and 12. However, Mueller suggests the use of mixtures or copolymers of polyethylene, polyurethane, polyvinyl chloride, polyvinyl alcohols, polyvinyl acetate, polymethacrylates as the polymer in the film forming polymeric composition (column 2, lines 54-57). Mueller also discloses the use of cellulose acetate, cellulose derivatives or methylcelluloses in the film forming polymeric composition (column 2, lines 57-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the film forming composition of Mueller onto body tissue so that the composition comprising polyethylene, polyurethane, polyvinyl chloride, polyvinyl alcohols, polyvinyl acetate, polymethacrylates or mixtures thereof and methylcelluloses and medicinal agents form a film over the body tissue. One having ordinary skill in the art would have been motivated to use mixtures or copolymers of polyethylene, polyurethane, polyvinyl chloride, polyvinyl alcohols, polyvinyl acetate, polymethacrylates, methylcelluloses and medicinal agent upon the suggestion of Mueller with the expectation that a film would form over the body tissue.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Marks teaches a composition comprising a gel formulation that contains a

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therapeutically effective tretinoin, an organic solvent, hydroxyethylcellulose, hydroxypropylcellulose, BHT and BHA and vitamin E (abstract, column 2, lines 57-68 and column 3, lines 1-47). See also examples 2-13 for exemplification of some embodiments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is 703-308-8374. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3592 for regular communications and 703-305-3592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Blessing Fubara  
Patent Examiner  
Tech. Center 1600  
July 18, 2003

